

**Hearing Before the
Subcommittee on Communications
Committee on Commerce, Science and Transportation
United States Senate**

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**Written Testimony of
Conny Kullman
Director General and CEO
INTELSAT**

Good afternoon Mr. Chairman, and Members of the Subcommittee. I am Conny Kullman, Director General and CEO of the International Telecommunications Satellite Organization -- "INTELSAT." I appeared before this Subcommittee last September to discuss the international telecommunications market and the role of INTELSAT in that competitive market. Today, four months into my tenure as Director General and CEO, I appreciate this additional opportunity to update you on developments in the international telecommunications market and INTELSAT's privatization effort. I would also like to offer some observations on the satellite reform legislation you are considering and highlight some very real concerns our Members have about the U.S. treatment of a future privatized INTELSAT. These concerns have been heightened by the regulatory experience of New Skies Satellites.

Since I appeared before you last September, INTELSAT has taken significant steps toward privatization. Specifically, the transfer to the INTELSAT spin-off, New Skies Satellites N.V., of five operating satellites and one under construction was completed last December. New Skies is a totally separate Netherlands-based company. It is a new competitor in the global satellite market, capable of competing with INTELSAT and everyone else. While New Skies may seem modest in size, its significance to the privatization process is considerable. New Skies was the first real test of whether the Signatories and Parties that comprise INTELSAT would be willing to start down the path towards privatization. The answer was yes, by unanimous consent.

I can assure you, therefore, that creating New Skies was just the first step. I was elected to the office of Director General on a platform that emphasized commercialization and privatization, and I take that mandate seriously. Privatization lead the agenda at the INTELSAT Board of Governors meeting held last week in Washington. Indeed, at that meeting, the Board agreed to examine a number of specific options for operating INTELSAT as a private business enterprise. But, in doing so, we must protect the interests of all our current users, including those lifeline users in

developing nations that rely on INTELSAT as their sole connection to the rest of the world. And we must bear in mind that, as a 143-member nation organization, INTELSAT can achieve privatization only by consensus forged from multilateral negotiation. I am committed to using our multilateral consensus-building process to achieve the privatization of INTELSAT as quickly as possible.

Mr. Chairman, with all due respect, it is global market forces that compel the commercialization and privatization of INTELSAT, not the will of any one Member, including the United States. In short, privatization should go forward because it is necessary for INTELSAT's survival in the increasingly competitive market that we face. But change, however necessary, cannot be achieved by the fiat of a single country, regardless of how well-intentioned that effort might be. As a result, legislation by any one country that seeks to mandate change to the INTELSAT organization will not facilitate change or accelerate the process. To the contrary, it would likely be counterproductive. It could cause the privatization efforts to be delayed or, worse, derailed.

INTELSAT's Position in the Dynamic and Competitive Satellite Market

During my last appearance, I tried to dispel the myth promulgated by

our competitors that INTELSAT is a monolithic power that dominates the international satellite market. Far from thwarting competition, we welcome it. We want to fight our battles in the marketplace and not in the regulatory arena or the halls of the U.S. Congress. Mr. Chairman, recent events further underscore INTELSAT's non-dominant position:

INTELSAT is not a cartel: INTELSAT neither restricts the volume nor controls the prices of services that Signatories sell to others, nor do we prevent Signatories from investing in or using competing international facilities. In fact, the recent actions of our New Zealand Signatory, Telecom Corporation of New Zealand Ltd., bear this out. Telecom New Zealand is the leading investor in the \$1.2 billion Southern Cross Cable, which will soon connect New Zealand with Australia, Fiji, Hawaii, and the mainland United States. It will be the first direct fiber optic link between the Pacific Rim and the United States. No cartel would permit one of its members to spearhead a venture which would pose such significant competition to the organization.

INTELSAT is not a monopoly: The events of the past few months have further discredited any notion that INTELSAT exerts monopoly power in any market. For example, Hughes/PanAmSat (our leading competitor) told you last September that INTELSAT should be disbanded by legislative

fiat because it possessed the largest single fleet of Western-built commercial geostationary communications satellites. In reality, both Hughes/PanAmSat and INTELSAT currently operate fleets consisting of 19 satellites. Later this year, however, when Hughes/PanAmSat launches the Galaxy XI, it will own the world's largest commercial fleet. Indeed, Hughes/PanAmSat is likely to hold its leading position for some time. INTELSAT has no new launches scheduled before mid-2000, by which time Hughes/PanAmSat plans to deploy even more new satellites. Already, Hughes/PanAmSat boasts on its Web site to customers and investors that its global system provides "*unparalleled* coverage of the Americas, Europe, Africa, the Middle East and Asia."

INTELSAT Exercises No Market Power Even on Thin Routes: In September, I emphasized that the FCC had recently found that INTELSAT enjoys no market power on any major international communications route to or from the United States. At that time, the FCC had not yet examined the so-called "thin routes," where no other satellite carrier is willing to provide service. On these routes, INTELSAT's prime objective of ensuring global interconnectivity obligates it to provide communications services on a non-discriminatory basis. Our leading competitor, Hughes/PanAmSat, had

suggested that these thin routes, which account for only 8% of INTELSAT's U.S. revenues, provide INTELSAT with a lucrative monopoly. Just last month, however, the FCC issued an order determining that our U.S. Signatory's uniform pricing commitment—and the U.S. Signatory's commitment to lower its tariffs by four percent annually until at least 2002—together prevent it from exercising market power or distorting prices even on the thin routes. Thus, the FCC has in effect concluded that INTELSAT enjoys no market power on any route to or from the United States--major or minor.

INTELSAT Faces Increasing Competition From Fiber Optic Cables:

Since the last hearing, the TAT-14 transoceanic submarine cable connecting the United States and Europe has nearly been completed. At a cost of \$1.5 billion, the TAT-14 will soon be able to carry more than 7.7 million simultaneous telephone calls when it enters onto service next year. And it will be owned and used by a consortium of more than 50 telecommunications operators, many of them INTELSAT Signatories.

But TAT-14 was only the beginning of the global buildout in modern fiber optic transoceanic submarine cables that will compete against INTELSAT and other satellite carriers. Several submarine cable projects

even larger than TAT-14 have recently been launched. The billion dollar FLAG Atlantic-1 Cable, will link the USA, the UK and France and will be capable of carrying nearly fifteen million simultaneous telephone calls on each of two transatlantic cables. When it is completed next year, the FLAG Atlantic-1 will have the largest capacity of any submarine cable system in the world. But it will not have the longest cable. That honor will belong to the 29,000-kilometer Southern Cross Cable Network currently under construction. With enough capacity to carry 1.5 million simultaneous telephone calls, this \$1.2 billion dollar cable will be the first direct fiber optic link between the Pacific Rim and the United States. And, as I have already noted, the lead investor in the Southern Cross Cable is the INTELSAT Signatory for New Zealand.

The reign of the Flag Atlantic-1 and the Southern Cross as the world's biggest and longest submarine cables may be short-lived. Even as we speak, a ship called the Long Line is slowly crossing the Pacific Ocean, en route from California to China, unspooling the \$1.2-billion China-U.S. Cable. This cable will be able to carry nearly 5 million calls at once—or all the programming of all the U.S. cable television networks. And the most ambitious undersea cable plan to date is “Project Oxygen,” an initiative to

connect 78 countries and locations with over 150,000 kilometers of undersea cable, at a projected cost of \$15 billion dollars. Earlier this month, the FCC authorized Project Oxygen to land in the United States. By the time Project Oxygen is completed in 2003, it promises to compete vigorously against INTELSAT and other satellite and cable providers.

Historically, INTELSAT's international public switched network operations have been an essential component of its business. The proliferation of cable competition has steadily eroded INTELSAT's share of this carriage. Indeed, INTELSAT has had to substantially reduce its IPSN business projections. The disproportionate build-out of transoceanic cables to and from the U.S. has significantly reduced American usage of INTELSAT space segment. In contrast, other countries with fewer cable options have become heavier users of INTELSAT space segment and are understandably concerned about its future.

In sum, INTELSAT faces a world of competition that it never faced before. This is in addition to the competition that INTELSAT has long faced from other geostationary satellite systems, and from low earth orbit satellites, or "LEOs," that can provide many similar services. The speed of technological innovation ensures that INTELSAT will continue to face

competition from a myriad of sources. I have attached some charts that illustrate these trends.

Proposed Legislation

With this background, let me now comment on the Chairman's proposed legislation.

First, we commend your bill for recognizing that the United States must "work constructively with its international partners, and with INTELSAT itself." As a treaty-based organization, each of our member nations has a voice in our operations, present and future.

We also understand that, given the dramatic technological changes that have reshaped global satellite communications during the past several decades, the United States and other countries may wish to update their own national laws and regulations. Of course, this is the sole prerogative of individual INTELSAT parties, and INTELSAT takes no position on domestic aspects of the proposed legislation. Mr. Chairman, the issue of direct access has been raised in your proposed legislation. With all due respect to you and other Members of this panel, I want to make it clear that this is an issue for the United States and not for INTELSAT.

Turning to the international aspects of the legislation, INTELSAT

Members are well aware of the United States' strong policy favoring privatization. This position has been vigorously advocated by both the U.S. Party and its Signatory throughout the privatization process. And INTELSAT understands that the Congress may wish to establish through legislation the goals and objectives to be pursued by the U.S. Party and Signatory. In this regard, Mr. Chairman, INTELSAT supported the overall approach of the bill you introduced last year, which would have established such goals and objectives. But it is neither necessary nor helpful for the United States to unilaterally legislate mandates and benchmarks for INTELSAT's privatization.

Indeed, in the highly competitive and dynamic marketplace that I have described for you, there is no pressing need for legislation and certainly no justification for employing punitive and anticompetitive sanctions and restrictions ostensibly to hasten INTELSAT's privatization. Such sanctions, though good for INTELSAT's competitors, would not be good for competition or consumers.

For example, the bill requires that the United States withdraw from INTELSAT if certain timetables are not met. If this ultimate sanction were applied, INTELSAT would be forced to stop serving the U.S. market. With

one less provider and significantly less satellite capacity available, both competition and space segment supply would be diminished, and prices likely would increase. Though our competitors would benefit, U.S. consumers and service providers would not.

Further, INTELSAT has serious reservations about the “carrot and stick” approach employed throughout S. 376. In some instances, these provisions would improperly restrict INTELSAT’s treaty-based rights to serve U.S. international markets. For example, Section 603(b) would in effect freeze existing services provided via the INTELSAT system pending privatization. This restriction would conflict with U.S. obligations under the INTELSAT Agreement, which prohibit any Party from restricting global connectivity via the INTELSAT system. Indeed, after frank discussions between INTELSAT and the Argentine government, Argentina recently lifted similar constraints on INTELSAT’s ability to operate to and from its territory.

The bill also prescribes various criteria that must be met by the privatized INTELSAT in order to avoid sanctions under the bill. We do not believe that the U.S. or any other INTELSAT member can or should attempt to mandate the precise outcome of the privatization process by restricting the ability of INTELSAT or its successors to compete. Successful reform is

achieved through vigorous negotiation, respect for the framework already established by international agreement, and broad-based consensus-building among Member nations – not through restrictive mandates and unilateral sanctions. Indeed, the process of privatization would be brought to a crashing halt were multiple Members to lock themselves into rigid positions on outcome. For the past two weeks, I have engaged in discussions with our member governments and Signatories around the world on the future structure of INTELSAT. In all parts of the globe—Africa, Asia or Europe—the Parties and Signatories have all expressed their concerns that the U.S. could enact punitive legislation that would seek to preempt the continuing process of INTELSAT’s privatization.

Finally, the bill specifies factors for the FCC to apply in granting access to the U.S. market by New Skies that essentially codify the FCC rule in DISCO II for IGO spin-offs. INTELSAT and other interested parties (including the U.S. government) took great pains to structure New Skies in a manner that is consistent with the requirements of DISCO II. However, we believe it is inappropriate to codify the DISCO II criteria *only* for IGO spin-offs. Indeed, locking criteria into law forecloses necessary flexibility in the regulatory process. For example, this provision would prevent the FCC from

ever leveling the playing field for IGO spin-offs with regard to market entry.

We would also like to bring to your attention that the pro-privatization message coming from the U.S. Congress and Administration is being undercut by U.S. regulatory treatment of New Skies. Indeed, our Parties' and Signatories' experience in the New Skies matter has given them cause for concern with regard to further privatization. Let me be more specific.

To date, twenty U.S. companies holding licenses to operate over 90 earth stations have applied to transfer their existing operating authority from INTELSAT satellites to New Skies satellites. Rather than granting the applications, however, your FCC has permitted these earth stations to operate only on a temporary basis. These U.S. earth stations are, in the words of the FCC, operating "at their own risk."

The agency's refusal to grant existing or new earth stations permanent authority to communicate with New Skies' satellites has created uncertainty. Because of the FCC's delay, New Skies cannot offer any new services or obtain any new customers. At the same time, the FCC has recently streamlined its application processes for the international submarine cables that compete against satellite carriers. Under the new procedures, companies seeking to land submarine cables in the United States face

essentially no regulatory delay.

These regulatory hurdles have created uncertainties for New Skies and, if not resolved promptly, could jeopardize New Skies' Initial Public Offering and its ability to further diversify its ownership. Yet early diminution of the percentage of Signatory ownership of New Skies was a major U.S. objective.

Such impediments hinder INTELSAT's privatization by sending the wrong message to the international community. Mr. Chairman, as I have found in my recent travels, such actions not only send conflicting messages about the U.S. direction on privatization, but could also influence the ultimate location and regulation of a privatized INTELSAT.

Conclusion

In closing, INTELSAT urges this Committee to ensure that U.S. laws and policies adhere to the following basic principles: (1) The United States should respect its international commitments embodied in the INTELSAT Agreements; (2) The United States should continue to encourage privatization of INTELSAT through good faith negotiation and respect for the interests of all Members and not by the unilateral actions of one Member; and (3) the U.S. regulatory authority should treat privatized entities in a fair

and equitable manner that allows them to compete on a level-playing field.

We look forward to working with you to achieve these ends.